

Applicant : Yang, et al.
Appl. No. : 09/347,845
Examiner : Bui, Vy Q.
Docket No. : 702563.40

Remarks/Arguments

Claims 1-6, 8-15 and 17-25 are pending in this application.

I. Claim Rejections under 35 USC §102

Claims 1, 3-4, 8-15, 17-22 and 22-25 are rejected under 35 USC §102(e), as being anticipated by Von Oepen (U.S. Patent 6,193,747). Claims 1 and 12 have been amended to render them more clear and definite, and to emphasize the patentable novelty thereof by identifying the location of the first cylindrical band and second cylindrical band being at the opposed longitudinal terminuses of the tubular body. Thus, as noted in Applicant's prior response, claim 1 recites that the "central portion consists essentially of" the non-sinusoidal cylindrical bands and non-sinusoidal longitudinal connectors that extend between two cylindrical bands located at the terminal ends of the tubular body. In addition, claim 12 recites that the "central portion consists essentially of" a plurality of bat-shaped cells formed from non-sinusoidal cylindrical bands and non-sinusoidal longitudinal connectors that extend between two cylindrical bands located at the terminal ends of the tubular body.

In contrast, the von Oepen patent discloses a stent having a sinusoidal web pattern connected by "spring elements" of several disclosed shapes. For example, the Examiner refers to the Figure 8 structure, which includes sinusoidal web patterns 61 and 62 separated by spring elements 64 and 65, all of which are located in the "central portion" (as properly interpreted) of the von Oepen device. This structure, therefore, does not have a "central portion" that consists essentially of cylindrical bands comprising non-sinusoidal diagonal elements, nor does it have a "central portion" that consists essentially of generally bat-shaped cells formed from non-sinusoidal cylindrical bands.

In the Office Action, the Examiner relies upon the device illustrated in Figure 8 of the von Oepen patent. At page 5 of the Action, the Examiner arbitrarily identifies one cylindrical band of sinusoidal diagonal elements as the "first end," and another band as the "second end." But the illustration relied upon by the Examiner is not the full

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illustration of Figure 8 from the von Oepen patent, which clearly shows that these elements are not both located at the terminal ends of the tubular body. Instead, the full illustration shows that the “central portion” of the von Oepen stent (as properly interpreted) includes several sinusoidal cylindrical bands, contrary to the limitations recited in claims 1 and 12.

As noted in Applicants’ previous response, the sinusoidal web patterns illustrated in the von Oepen device materially affect the properties of that device. Therefore, these devices do not anticipate the claims of the present application

Thus, each of claims 1 and 12 distinguishes over the stents shown in the von Oepen patent. Each of the other rejected claims is dependent on one or the other of claims 1 and 12, and each is therefore distinguished from von Oepen on the same basis.

Accordingly, because each of the independent claims of the present application contains limitations not found in the von Oepen patent, the section 102(e) rejection is overcome and the claims are in condition for allowance.

II. Claim Rejections Under 35 U.S.C. 103(a)

The Examiner rejected claims 2, 5-6, and 23 under 35 U.S.C. 103(a) as being unpatentable over the von Oepen patent in view of Steinke (USP 6,224,626) (as to claims 2 and 23) and Khosravi et al. (USP 5,824,054) (as to claims 5-6). Because neither of the cited references, either alone or in combination, discloses, teaches, or suggests the subject matter of the claims as presently amended, reconsideration and withdrawal of the rejections is respectfully requested.

Specifically, the section 103 rejections are based upon the same analysis of the von Oepen patent addressed above in relation to the section 102(e) rejections. Accordingly, for the same reasons set forth above, the combination of the von Oepen, Steinke, and Khosravi et al. patents fail to disclose all of the limitations recited in the amended claims. The claims are, therefore, in condition for allowance.

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CONCLUSION

In view of the foregoing, it is submitted that the claims presented in this application define patentable subject matter over the cited prior art. Accordingly, Applicant respectfully requests entry of the amendments and allowance of the claims. The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

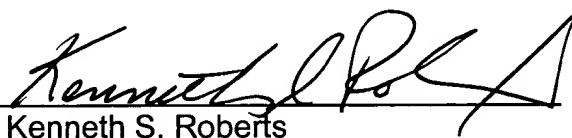
Respectfully submitted,

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Dated: _____

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By: _____



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